

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **DISTRICT OF DELAWARE**

4 MARY KAY BOHAN,                                   )

5                                   Plaintiff                                   )  
6                                   )                                   )

7                                   v.                                   ) **Case No.:**

8 ALLIED INTERSTATE,                                   )

9                                   Defendant                                   )  
10 \_\_\_\_\_)

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

11                                   **COMPLAINT**

12                                   MARY KAY BOHAN (“Plaintiff”), by and through her attorneys, KIMMEL  
13 & SILVERMAN, P.C., alleges the following against ALLIED INTERSTATE  
14 (“Defendant”):  
15

16                                   **INTRODUCTION**

17                                   1.     Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
18 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”) and the Telephone Consumer Protection  
19 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).  
20

21                                   **JURISDICTION AND VENUE**

22                                   2.     Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See  
23 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).  
24  
25



1 than one year.

2 14. At all relevant times, Defendant attempted to collect a consumer debt  
3 and contacted Plaintiff in its attempts to collect that debt.  
4

5 15. Plaintiff does not have any business or commercial debts, so the debt  
6 that Defendant has been calling to collect could only have been a personal debt  
7 incurred primarily for personal, family or household purposes.  
8

9 16. Beginning in or about November 2015, and continuing through  
10 November 2016 Defendant placed repeated harassing telephone calls to Plaintiff  
11 on her cellular telephone and work telephone numbers regarding an alleged debt.  
12

13 17. Defendant called Plaintiff from numbers including, but not limited to:  
14 (888) 253-3108.

15 18. When contacting Plaintiff on her cellular telephone, Defendant used  
16 an automatic telephone dialing system and automatic and/or pre-recorded  
17 messages.  
18

19 19. Plaintiff knew that Defendant was using an automatic telephone  
20 dialing system and automatic and/or pre-recorded messages as she would hear a  
21 message play before a live caller would come on the phone.  
22

23 20. Defendant's telephone calls were not made for "emergency  
24 purposes."  
25

21. Plaintiff told Defendant to stop calling her when the calls first began

1 in November 2015.

2 22. Plaintiff also sent written correspondence to Defendant indicating to  
3 stop calling.  
4

5 23. However, Defendant's calls to Plaintiff continued.

6 24. During this time Defendant also placed calls to Plaintiff's work  
7 number.  
8

9 25. Plaintiff never provided her work telephone number to Defendant.

10 26. These calls were disruptive to her work.

11 27. Defendant also called Plaintiff's mother despite having Plaintiff's  
12 contact information.  
13

14 28. Defendant's actions as described herein were taken with the intent to  
15 harass, upset and coerce payment from Plaintiff.  
16

17 **COUNT I**  
18 **DEFENDANT VIOLATED §§ 1692d and d(5) OF THE FDCPA**

19 29. A debt collector violates § 1692d of the FDCPA by engaging in  
20 conduct the natural consequence of which is to harass, oppress, or abuse any  
21 person in connection with the collection of a debt.  
22

23 30. A debt collector violates § 1692d(5) of the FDCPA by causing a  
24 telephone to ring or engaging any person in telephone conversation repeatedly or  
25

1 continuously with intent to annoy, abuse, or harass any person at the called  
2 number.

3  
4 31. Here, Defendant violated §§ 1692d and 1692d(5) of the FDCPA by  
5 repeatedly calling Plaintiff on her cellular and work telephone numbers and  
6 continuing to call knowing its calls were unwanted between July 2016 and  
7 November 2016.  
8  
9

10 **COUNT II**  
11 **DEFENDANT VIOLATED § 1692c(b) OF THE FDCPA**

12 32. A debt collector violates § 1692d of the FDCPA when without the  
13 prior consent of the consumer given directly to the debt collector, or the express  
14 permission of a court of competent jurisdiction, or as reasonably necessary to  
15 effectuate a postjudgment judicial remedy, it communicates, in connection with the  
16 collection of any debt, with any person other than the consumer, his attorney, a  
17 consumer reporting agency if otherwise permitted by law, the creditor, the attorney  
18 of the creditor, or the attorney of the debt collector.  
19

20 33. Defendant violate § 1692c(b) of the FDCPA when it called Plaintiff's  
21 mother regarding the alleged debt between July 2016 and November 2016.  
22  
23  
24  
25

**COUNT III**  
**DEFENDANT VIOLATED THE**  
**TELEPHONE CONSUMER PROTECTION ACT**

34. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

35. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

36. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

37. Defendant's calls to Plaintiff were not made for emergency purposes.

38. Defendant's calls to Plaintiff, in and after November 2015, were not made with Plaintiff's prior express consent.

39. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

40. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

41. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, MARY KAY BODEN, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1) and 47 U.S.C. §227(b)(3)(A);
- b. Statutory damages of \$1,000.00 for each Plaintiff for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs, pursuant to 15 U.S.C. § 1693k(a)(3);
- d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- e. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- f. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);
- g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3)
- h. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, MARY KAY BODEN, demands a jury trial in this case.

1 RESPECTFULLY SUBMITTED,

2 KIMMEL & SILVERMAN, P.C.

3 Date: 8-4-17

4 By: /s/W.Christopher Componovo, Esquire

5 W. Christopher Componovo, Esquire

6 Kimmel & Silverman, P.C.

7 30 E. Butler Pike

8 Ambler, PA 19002

9 Phone: (215) 540-8888 ext. 110

10 Fax: (877) 788-2864

11 Email: [wcomponovo@lemonlaw.com](mailto:wcomponovo@lemonlaw.com)